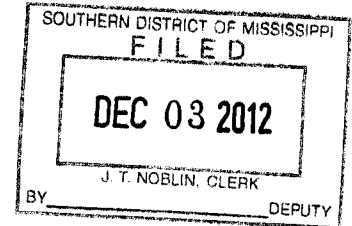


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



SEAL

Plaintiff/Relator

v.

CIVIL ACTION NO. 3:10cv552 CWR-LRA

SEAL

Defendants.

FILED UNDER SEAL AND IN CAMERA

**THE GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE
IN PART AND TO DECLINE TO INTERVENE IN PART**

Dated: November 30, 2012

Respectfully Submitted,

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Southern District of Mississippi

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**UNITED STATES OF AMERICA, *ex rel.*,
ACADEMY HEALTH CENTER, INC. f/k/a
ADVENTIST HEALTH CENTER, INC.**

Plaintiff/Relator

v.

CIVIL ACTION NO. 3:10cv552 HTW-LRA

**HYPERION FOUNDATION, INC.
d/b/a OXFORD HEALTH & REHABILITATION CENTER;
ALTACARE CORPORATION; HP/ANCILLARIES, INC.;
LONG TERM CARE SERVICES, INC.;
SENTRY HEALTHCARE ACQUIRORS, INC.;
HP/MANAGEMENT GROUP, INC.; HARRY McD. CLARK;
JULIE MITTLEIDER; DOUGLAS K. MITTLEIDER; and
JOHN DOES 1-200**

Defendants.

FILED UNDER SEAL AND *IN CAMERA*

**THE GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE
IN PART AND TO DECLINE TO INTERVENE IN PART**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of this action and to decline to intervene in part of this action. The United States intervenes in that part of the action which alleges that defendants Hyperion Foundation, Inc., AltaCare Corporation, Long Term Care Services, Inc. and Douglas K. Mittleider, made, caused to be made, and/or conspired to make false claims and false statements material to false claims to Medicare and Medicaid, for nursing home services at the Oxford Health & Rehabilitation Center facility in Lumberton, Mississippi. The United States declines to intervene as to the remainder of the allegations in the action, including in any claims against defendants HP/Ancillaries, Inc., HP/Management Group, Inc., Sentry Healthcare Acquirors, Inc., Harry McD. Clark and Julie Mittleider.

Although the United States declines to intervene in a portion of the action, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the declined portion of the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that the part of the action in which the United States has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action, even as to the non-intervened part of this action, be served upon the United States; the United States also requests that all orders issued by the Court be sent to the Government’s counsel. The United States reserves its right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene today, for good cause, at a later date.

The United States reserves the right to seek the dismissal of the relator’s action or claim on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4).

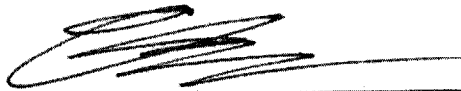
Finally, the United States requests that the relator’s Complaint, First Amended Complaint and Second Amended Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States’ investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed Order accompanies this notice.

Dated: November 30 , 2012

Respectfully Submitted,

GREGORY K. DAVIS
United States Attorney
Southern District of Mississippi



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